REMARKS

Claims 8-21 and 26-35 are pending in the present application. In the Office Action mailed May 16. 2003, the Examiner rejected claims 8-21 and 26-35 under 35 U.S.C. §103(a) as being unpatentable over Klatt et al. (USP 6,415.277).

In the Office Action of March 7, 2003, the Examiner indicated that claims 8-21 and 26-35 were allowed. The Examiner explicitly stated that "[t]he prior art of record fails to disclose and/or suggest the following: a computer-readable medium, a method and a system for displaying real-time status of product availability comprising the steps of store and access and update as recited in claims 8, 16, 26 and 30." Office Action of March 7, 2003, pg. 8. In the Response of May 1, 2003, Applicant canceled all but the allowed claims, thus, placing the application in condition for allowance. However, rather than issue a Notice of Allowance consistent with the Examiner's previous statements, the Examiner has rejected the claims previously indicated as allowed. Furthermore, the Examiner has supported the rejection with the very same art that the Examiner previously stated the current invention was patentable over. That is, in the Office Action of March 7, 2003, the Examiner indicated that claims 8-21 and 26-35 were allowable over Klatt et al. Now the Examiner indicates that those very claims are rejected as unpatentable over Klatt et al.

As a result of the Examiner's retraction of allowable subject matter, Applicant has reintroduced all cancelled claims and placed the claims back into condition before the last amendment that was intended to place the application in condition for allowance. Applicant asserts that the claims are allowable over the prior art of record and that the Examiner has not set forth a *prima facie* case to support an obviousness rejection as completely set forth in the previous Responses filed in this case, and it is quite clear that the previous references applied as §102 rejections clearly do not anticipate the claims since each and every element cannot be found in those references. Applicant incorporates herein all arguments previously made. Applicant will now address the current Office Action.

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<u>Response to Office Action of May 16, 2003</u>

The Examiner rejected claims 8-21 and 26-35 under §103(a) as being unpatentable over Klatt et al. Regarding claim 8, the Examiner provides a recitation of the claim elements followed by a citation to a section of Klatt et al. that the Examiner asserts teaches the corresponding element. Following the citations, the Examiner asserts that "Klatt is silent as to the provision of using as temporary table to store the number of days before each product is available." Office Action of May 16, 2002. The Examiner continues by stating that "[i]nstead, Klatt teaches storing the information in the database 803, for example (Fig. 8, Klatt)." *Id.* However, the Examiner then takes official notice that it "was well known in the database art to use temporary tables to store information like the product availability timeline of Klatt." *Id.*

Such an analysis by the Examiner is not proper as it completely ignores all the other elements in the claims. The Examiner's rejection is not sustainable for a number of reasons, which will now be set forth in detail.

"The Examiner may take official notice of facts outside the record which are capable of instant and unquestionable demonstration as being 'well-known' in the art." MPEP §2144.03. Furthermore, the Examiner must "cite a reference in support of his or her position" should the Applicant traverse the Examiner's assertion. *Id.* In the case at hand, Applicant disagrees with the Examiner's assertion and requests the Examiner cite specific references to support the contention for purposes of appeal. Specifically, while Applicant does not dispute the use of temporary tables as a storage medium for data, Applicant disagrees with the Examiner's assertion and believes that temporary tables are not typically used to store information prior to entry into a database in a manner as is claimed. That is, typical database storage techniques do not include intermediary temporary tables, but rather, data is stored directly in the database. Accordingly, Applicant requests the Examiner cite and provide a reference to support this rejection that discloses such use of a temporary table.

Additionally, the Examiner has repeatedly ignored numerous distinctions between that which is claimed and the teachings of Klatt et al. While the Examiner provided a detailed rejection of claim 8, the rejection is again based on a fundamental

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misunderstanding of the art of record and the claimed invention. That is, contrary to the
Examiner's assertions, Klatt et al. is directed to an entirely different purpose than the
claimed invention. This difference is clearly illustrated even by the titles of each
invention. Klatt et al. is titled a "[m]ethod of generating print production tasks using
information extracted from enterprise databases." The claimed invention is titled a
"[m]ethod and apparatus for displaying real-time status of product availability, orders,
and sales revenue." Therefore, Klatt et al. is directed to scheduling production tasks after
queuing a customer's database and the claimed invention is directed to displaying product
production information (i.e. product availability, orders and sales revenue) regarding
products currently in production by deriving the information from an internal database.
With an understanding of this fundamental difference, one of ordinary skill in the art will
readily recognize that the claimed invention (as will be set forth, and has been previously
argued) is patentably distinct from the art of record.

      Klatt et al. teaches a "[m]ethod of generating print production tasks using
information extracted from enterprised data bases." See Title of Klatt et al. Specifically,
Klatt et al. teaches a set of employee information, letterhead information, and instruction
manual information. Col. 2 ln. 65 to col. 3 line 1 and col. 6 lns. 4-51. The database of
Klatt et al. contains information suited to generate printed products for the database
owner, i.e. the customer. However, claim 8 (and reintroduced claim 1) specifically calls
for populating a database with data to include a date when each product will be available
for shipment for a plurality of products. One of ordinary skill in the art will readily
recognize that such a database is not a customer database but a seller database. That is,
customer databases do not typically include data such as when the seller will be able to
ship each product or specifically, a plurality of products. The distinction in databases and
the consequences that stem therefrom cannot be overlooked. The Examiner appears to
have confused the claimed database with the customer database of Klatt et al. and has
stretched the interpretation of the present claims to something never anticipated by Klatt
et al. The Examiner's interpretation is unreasonable because one skilled in the art
reviewing this reference would not reasonably conclude that it teaches, or even suggests,
the system that is presently claimed. Applicant believes that this confusion is indicative
of the incorrect basis upon which the current rejection is predicated. The Examiner

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cannot simply ignore the teachings of Klatt et al. in order to maintain a rejection that is completely unsupported by the reference itself. The Office would appear to be applying a completely different set of standards in rejecting these claims, in this art unit, than in other art units within the Office. However, the Office has no basis in law to do so.

Applicant believes that claim 1 is allowable for all the reasons previously set forth, but since the Examiner has limited the rejections to claim 8, Applicant will address the limitations of claim 8. Applicant believes that claim 8 is patently distinct from the art of record on two bases. First, Klatt et al. fails to teach the storing of the information in temporary tables and the Examiner has failed to supply a reference to show the use of temporary tables for the storage of information in conjunction with a database of the type applicable in the claimed invention. Second, Klatt et al. teaches only a customer database, which one of ordinary skill in the art will clearly recognize would not be populated with a date when each product will be available for shipment for a plurality of products. Why would a customer's database contain all the shipping dates for all the products being produced by a seller? Simply, it would not, and Klatt et al. does not teach or suggest to the contrary. As such, claims 1 and 8 are patently distinct from the art of record. Furthermore, claims 2-15 are in condition for allowance pursuant to the chain of dependency. ·

Regarding claim 16, the Examiner failed to address the actual elements of the claim. Instead, the Examiner rejected claim 16 under the same basis as claim 8. The Examiner is reminded that to established a *prima facie* case of obviousness, the Examiner must show that the reference teaches or suggests each and ever element of the claimed invention. Nevertheless, as shown with respect to claim 8, the Examiner failed to supply a reference to support the assertion "that it is well-known in the database art to use temporary tables to store information like the product availability timeline of Klatt." Office Action of May 16, 2003, page 3. Furthermore, the Examiner has failed to appreciate the numerous distinctions that stem from the differences in a customer database versus a seller database. This is not mere, superfluous use language, or design choice — these are real world differences, with limitations in the claims that differentiate one from the other. Claim 16 is clear that a date when each product will be ready for shipment is periodically obtained from the database. Again, why would a customer's

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database contain all the shipping dates for a seller? Simply, one of ordinary skill in the art will readily recognize that a customer database would not contain information on when a seller will have a product ready for shipment. For all of these reasons, Applicant believes that claim 16 is patently distinct from the art of record. Furthermore, Applicant believes claims 17-21 are in condition of allowance pursuant to the chain of dependency.

Regarding claim 26, the Examiner has again failed to address the specific elements of the claim. Once more, the Examiner has rejected claim 26 under the same basis of claim 8 and 16. Therefore, Applicant incorporates herein the relevant remarks with respect to claims 8 and 16. However, Applicant requests the Examiner to address each and every element of the claim for purposes of appeal. Claim 26 is different from claims 8 and 16, and since Applicant submitted, and paid for the additional independent claim, the Examiner is required to independently examine the claim. Applicant hereby requests such thorough examination. Absent such a thorough examination, for the reasons previously set forth, Applicant believes claim 26 is patentably distinct from the art of record. Furthermore, Applicant believes claims 27-29 are in condition for allowance pursuant to the chain of dependency.

Regarding claim 30, the Examiner also failed to address the specific elements of this claim. Instead, the Examiner rejected claim 30 under the same basis as claim 8, 16 and 26. As such, Applicant incorporates herein the relevant remarks with respect to claims 8, 16 and 26. Again however, Applicant requests the Examiner to address each and every element of the claim for purposes of appeal. Claim 30 is different from claims 8 and 16, and since Applicant submitted, and paid for the additional independent claim, the Examiner is required to independently examine the claim. Applicant hereby requests such thorough examination. Absent such a thorough examination, for the reasons previously set forth, Applicant believes that claim 30 is patently distinct from the art of record. Accordingly, claim 31-35 are in condition for allowance pursuant to the chain of dependency.

<u>Response to Office Action of March 7, 2003</u>

As previously indicated, in the Response of May 1, 2003, Applicant canceled all non-allowed claims to place this case in condition for allowance. Since the Examiner has

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withdrawn the allowability of claims 8-21 and 26-35, Applicant hereby re-presents claims 1-7 and 22-25.

Regarding the subject matter of claim 1, the Examiner provided a rejection consisting of a recitation of the claim elements and corresponding pin-point citations to illustrate the portions of Klatt et al. that the Examiner contends teach each respective claim element. After reviewing the Examiner's citations it is apparent that the Examiner is confused as to what is taught by Klatt et al. and what is claimed. It appears that this confusion stems from the Examiner reading each claim element separately rather then interpreting the claim as a whole. The Examiner is reading limitations into the claim that are not present and equating elements that one of ordinary skill in the art will readily recognize are not equivalent. This is an improper interpretation. Applicant believes that an element-by-element comparison will illuminate the numerous distinctions between the claimed invention and the art of record.

The preamble of the claim calls for:

* A method for displaying real-time status of product availability.

However, the Examiner ignored the specific language of the preamble and instead is reading it as equivalent to:

* A method for scheduling production of a product.

The Examiner cites column 4, lines 10-17 as teaching "a method for displaying real-time status of product availability." However, the citation reads:

> In an inventory control system, print orders can be automatically generated when inventory levels fall below a threshold, or after a specified period of time has elapsed (e.g., print new brochures every 90 days). In a publishing environment, reprint orders for magazine articles and the like can be automatically generated in response to a reprint order request, or when the number of reprints in stock falls below a certain level. Other application areas are also possible.

Col. 4, lns. 9-17.

As stated, this teaches "a method for scheduling production of a product" not "a method for displaying real-time status of product availability." This distinction clearly illustrates the Examiner's confusion regarding the claimed invention and the citation on which the Examiner is improperly reading the claims. The citation is clear that this is "an inventory control system" so "print orders can be automatically generated." Col. 4, lns. 9-

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10. One of ordinary skill in the art will readily recognize that the claimed invention is fundamentally different from that of Klatt et al. That is, Klatt et al. is a method for scheduling production of a product, not "a method for displaying real-time status of product availability."

Claim 1 then, also, calls for:

- automatically querying a database, for data about a plurality of products that are scheduled for production, at regular time intervals for a date when each product will be ready for shipment, and if the date does not exist, skipping that product.

Again, the Examiner is ignoring the specific language of the claim and instead is reading the element as equivalent to:

- automatically querying a database, for changes to the database that are used to schedule production of a product, at regular time intervals, and if a change to the database does not exist, not scheduling production...

The Examiner cites column 6, lines 18-20, as teaching "automatically querying a database, for a plurality of products that are scheduled for production." However, the section actually teaches that "[t]he database can comprise a relational or object oriented database, and data residing in the database can be queried and modified using well known data access conventions such as Structured Query Language (SQL)." Col. 6, lns. 18-20.

While Applicant does not disagree that the cited section teaches the use of a database and does not refute that a database can be queued for specific data, the citation does not teach every element of the portion asserted by the Examiner. That is, the claim calls for "querying a database, for data about a plurality of products that are scheduled for production." Klatt et al. simply does not teach this element. Since the database referred to in Klatt et al. is an "enterprise database," i.e. a customer database, the database does not contain data regarding products that are already scheduled for production by the seller. That is, a customer would not have a database of everything a seller has in production nor would a customer be privy to such information. Simply, one of ordinary skill in the art will readily recognize that Klatt et al. is directed to queuing a customer database to gather data about a customer that can be used to schedule products that the seller will produce. One of ordinary skill in the art will recognize that this is not equivalent to querying a seller database for information about products already scheduled

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for production. This is not a trivial distinction. Klatt et al. teaches deriving data in order to produce print products and the claimed invention teaches deriving data regarding products already scheduled for production to display information about those products. One of ordinary skill in the art will readily recognize this key distinction.

The Examiner continues citing sections of Klatt et al. that are unsupportive of the rejection because the Examiner is extracting a citation from the context of the reference. Specifically, the Examiner cites Fig. 11, item 1103 and corresponding text and Fig. 9, 908 and corresponding text as teaching "automatically querying...for... a date when each product will be ready for shipment and if the date does not exist, skipping that product." However, the figures are simply representations of the GUI's for creating rules regarding what type of products that should be scheduled for production and when the product should be shipped. Specifically, "[s]election option 908 allows the user to specify shipping information (e.g. ship when order complete, hold until a designated time, and ship to a designed entity)" and "[s]election option 1103 allows the user to select the product for which the item [is] to be printed." Col. 13, lns 41-43 and Col. 14, lns. 9-11. Therefore, the cited sections clearly do not teach "automatically querying...for... a date when each product will be ready for shipment and if the date does not exist, skipping that product" but instead teaches that the customer may specify when to ship the products and which products to skip production of all together.

Claim 1 also calls for:

- for each product, counting a number of days between a current date and the date when the product will be ready for shipment to create a number of days before the product is available

Again, the Examiner ignores the specific language of the claim and instead is reading the element as equivalent to:

- for each change to the database that can be used to schedule production of a product, estimating a date when the product will be ready for shipment

Specifically, the Examiner cites column 12, lines 7-9 of Klatt et al. as teaching this element. However, the citation is unsupportive in that it teaches that "a notification feature can be provided, such that an e-mail message is transmitted to a predetermined employee (or to the employee whose print products were automatically ordered)

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confirming that the print order was submitted, and an estimated completion and/or shipping date." The section is clear that the shipping date is not calculated, as in the current invention, but instead is merely an "estimated" date. One of ordinary skill in the art will recognize that claim 1 calls for a specific implementation of calculating the number of days before the product is available and nowhere in the art of record is this specific method taught.

Claim 1, also calls for:

- displaying a listing of each product and when the product is available for shipment for product management.

However, the Examiner has mistakenly interpreted the claim as calling for:

- sending a confirmation for each product and when the product is available for shipment to the entity for which the product is being produced.

This misreading of the claim is illustrated by the Examiner's supportive citation, which states that "a notification or shipment request can also be generated for a vendor to schedule further action of a particular date." Col. 12, lns. 10-12. The citation continues by stating that "if it is determined that the print job will be completed in two days and result in a certain quantity of paper products, an advance notification can be transmitted to a shipping vendor to schedule pick-up of a predetermined number of boxes on the date that the print job will be completed." Col. 12, lns. 12-17. Therefore, the section does not teach "displaying a list of each product and when the product is available for shipment" but merely sending a notification regarding a "certain quantity" or a "predetermined number of boxes." Again, these elements are simply not the same, and are not equivalent.

In short, the database queried contains information suited to generating printed products for the database owner, i.e. the customer. The database does not, however, contain product availability information. The claimed invention is specifically tailored to searching a database containing product information to generate and display further product information, e.g. availability. The claimed invention is not searching a database of customer information in order to produce a product because the claimed database is a database of products already scheduled for production. This fundamental difference in databases illustrates the fundamental difference in purpose between the claimed invention

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and Klatt et al. Furthermore, this fundamental difference in purpose illuminates other underlying distinctions.

Klatt et al. is focused on gathering customer information, from a customer database, to create a printed product for that customer. Therefore, all operations performed in Klatt et al. are done for that customer or buyer. Specifically, information is gathered from the customer in order to produce a printed product for the customer. Notifications are sent to update the customer. On the other hand, the claimed invention is focused on seller information. The database is populated with data about a plurality of products. Who else but the entity producing the products, the seller, would be concerned with all the products that the seller has in production? Surely, Klatt et al. is not so concerned, and clearly does not disclose such. Simply, the claimed invention is focused on a seller managing the seller's production. A customer would not be interested in or privy to the very specific seller production information queried for and displayed in the claimed invention.

For all of these reasons Klatt et al. clearly does not teach the claimed invention. By removing each element of the claim from the context of the claim, the Examiner has mistakenly applied a reference that is directed to an utterly different purpose and therefore, teaches an extremely different invention. However, each element of the claim is not to be read in a vacuum but the claim must be read as a whole. Upon doing so, the distinctions highlighted above become readily apparent. Furthermore, similar distinctions become evident in the subsequent claims. Rather then provide similar detailed analysis on the remaining claims, which could become overly cumbersome to review, Applicant will highlight some of the major distinctions, which are common in the claims, that become apparent upon properly interpreting the claim as a whole.

Clear Distinctions

Current invention:	Klatt et al.:
• Product already scheduled for production	• Product being scheduled for production (i.e. product not yet scheduled for production)

A product already scheduled ≠ A product to be scheduled.

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• Seller's database queried for information pertaining to the scheduled product	• Customer's database queried for changes (i.e. updates) that may be used to produce a product

Querying the seller's database ≠ Querying the customer/buyer's database.

Querying for information that has already been scheduled ≠ Querying for information that will enable a product to be scheduled.

• Counting/calculating a number of days until shipment	• Only estimating a date when the product may be ready to ship

Counting/calculating ≠ Estimating

• Displaying a listing of each product and when each product is available for shipment for product management	• Sending a confirmation when the product will ship to the customer

Displaying a listing of each product (i.e. product scheduled for production) ≠ Sending an email to the customer that the product will be produced.

Displaying for product availability management ≠ Sending an email to confirm the customer has a purchase order

• Displaying a listing of the sum of the number of orders for each product category and the total revenue for each product category	• Entirely ignored by the Examiner and not taught by Klatt et al.

For all of these reasons Klatt et al. clearly does not teach the claimed invention. If the claims are read as a whole, and it is understood that Klatt et al. is directed to a very different purpose than the claimed invention, then the above distinctions become apparent. However, due to the apparent difficulty that the Examiner has had when interpreting the art of record, as evidenced by the Examiner's withdrawing allowability,

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Applicant would like to take the opportunity to explicitly address a few of the numerous elements that the art of record does not teach.

As previously shown with respect to claim 1, the claim calls for "automatically querying a database, for data about a plurality of products that are scheduled for production." Klatt et al. teaches away from this by teaching a database maintained by a customer and accessible by a print product seller "so that information for print requests can be extracted." Specifically, Klatt et al. teaches a customer database of employee information, letterhead information, or instruction manual information. Col. 2, ln. 65 - Col. 3, ln. 1 and Col. 6, lns. 48-51. Therefore, claim 1 is patentably distinct from the art of record.

Additionally, the data extracted from the database in the claimed invention is used to generate seller-needed data such as "a listing of each product and when the product is available for shipment for product management." Again, who else but the entity producing the products, the seller, would be interested in, or privy to, receiving a listing of all products being produced by that seller and when those products will be available for shipment? While Klatt et al. teaches, and Applicant readily acknowledges, a single customer may wish to know when the products being produced for that single customer, will be available for shipment. However, that customer would not be interested in, nor would the customer be made privy to, "a listing of each product and when the product is available for shipment for product management" and why would a buyer manage all the seller's products?

Claim 23 presents even further distinctions. Specifically, claim 23 calls for "automatically querying a database...for data about a plurality of product including a date when each product will be ready for shipment, a number of orders, a product category for each order, and sales revenue for each order." Again, Klatt et al. teaches directly away from that which is claimed. Klatt et al. teaches querying a customer's database to schedule production tasks for that specific customer. Why would a customer database contain data about "a date when each product will be ready for shipment, a number of orders, a product category for each order, and sales revenue for each order?"

This point is further illustrated when claim 23 calls for "adding the sales revenue from each order in each product category to create a sum of the total revenue for each

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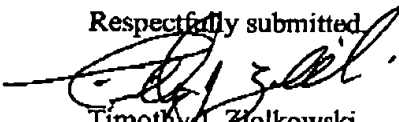
product" and "displaying the sum of the number of order for each product category...[and] the sum of the total revenue for each product category." Again, Klatt et al. is directed toward a system and method for deriving data from a customer database to schedule product production for that customer. Therefore, the customer database would not be privy to information regarding the seller's "sum of the total revenue for each product category."

For all of these reasons Applicant believes claims 1-35 are clearly patentably distinct from the art of record. Simply, Klatt et al. does not teach each and every element of each and every claim. Therefore, Applicant respectfully believes that claims 1-35 are in condition for allowance and a Notice of Allowance is accordingly requested.

Applicant acknowledges the Examiner's duty to perform a thorough search and examination as outlined in MPEP §904.01; however, Applicant also wishes to remind the Examiner that it is also the Examiner's duty to avoid delay in prosecution and unreasonably forestall resolution of applications. Just as applying multiple references is to be avoided because it "adds to the burden and cost of prosecution and should therefore be avoided," MPEP §904.03 (emphasis in original), unnecessary Office Actions, allowing claims, then retracting the same claims over the same art adds nothing but burden and cost to prosecution.

Should the Examiner have any questions regarding this Amendment, or believe an interview would expedite handling, the Examiner is cordially invited to call the undersigned.

Respectfully submitted

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